No. 14585

United States Court of Appeals

for the Ninth Circuit

FINTON J. PHELAN, JR., and E. R. CRAIN,

Appellants,

vs.

RICHARD TAITANO and HARRY L. MANGERICH,

Appellees.

Supplemental Transcript of Record

Appeal from the District Court of Guam
Territory of Guam.

FILED

AUG - 8 1955

PAUL P. O'BRIEN, CLERK

Phillips & Van Orden Co., 870 Brannan Street, San Francisco, Calif.—7-1-55

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

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District Court of Guam, in and for
the Territory of Guam

Civil Case No. 69-54

FINTON J. PHELAN, JR., and E. R. CRAIN,
Plaintiffs,

vs.

RICHARD TAITANO and HARRY L. MANGERICH,
Defendants.

NOTICE OF MOTION

To Finton J. Phelan, Jr., and E. R. Crain, Plaintiffs:

Please take notice that the motion of the defendants for dismissal and summary judgment filed November 12, 1954, in the within case, copy of which is attached, will be brought on for hearing before the court in the courtroom, Congress Building, Agana, Guam, on Friday, November 26, 1954, at 9:30 a.m., or as soon thereafter as counsel can be heard.

Dated November 12th, 1954.

Attorneys for Defendants:

/s/ HOWARD D. PORTER,
Attorney General;

/s/ LOUIS A. OTTO, JR.,
Deputy Attorney General;

/s/ LEON D. FLORES,
Island Attorney;

/s/ RICHARD ROSENBERRY,
Deputy Island Attorney.

[Endorsed]: Filed November 15, 1954.

[Title of District Court and Cause.]

AFFIDAVIT OF SERVICE

Gregorio S. Babauta, being duly sworn, states that he is over the age of twenty-one (21) years, and that he has duly served a copy of the motion of the defendant filed November 12, 1954; affidavit of defendant Harry L. Mangerich in support thereof, and Notice of Motion, on the plaintiff in the within case as follows:

On plaintiff Finton J. Phelan, Jr., on November 12, 1954, by leaving copies thereof with Jell Travis, secretary, at his office, Mesa Building, Agana, Guam;

On plaintiff E. R. Crain on November 12, 1954, by personally delivering copies thereof to him at his office, Aflague Building, Agana, Guam.

/s/ GREGORIO S. BABAUTA.

Subscribed and sworn to before me this 15th day of November, 1954.

[Seal] /s/ ROLAND A. GILLETTE,
Clerk, District Court of Guam.

[Endorsed]: Filed November 15, 1954.

[Title of District Court and Cause.]

AFFIDAVIT OF SERVICE

Gregorio S. Babauta, being duly sworn, states that he is over the age of twenty-one (21) years, and that he has duly served a copy of the memorandum of the defendants, an affidavit of defendant Richard Taitano, filed November 22, 1954, and on the plaintiffs in the within case as follows:

On plaintiff Phelan on November 22, 1954, by leaving copies thereof with Mrs. Helen Phelan, Secretary, at his office, Mesa Building, Agana, Guam;

On plaintiff E. R. Crain on November 22, 1954, by personally delivering copies thereof to him at his office, Aflague Building, Agana, Guam.

/s/ GREGORIO S. BABAUTA.

Subscribed and sworn to before me this 23rd day of November, 1954.

[Seal] /s/ J. A. CRASOSTOMO,
Deputy Clerk, District Court of Guam.

[Endorsed]: Filed November 23, 1954.

[Title of District Court and Cause.]

DESIGNATION OF CONTENTS OF RECORD ON APPEAL

Pursuant to Rule 75 (a) of the Federal Rules of Civil Procedure, plaintiff-appellants hereby designate for inclusion in the record on appeal to the

United States Court of Appeals for the Ninth Circuit, taken by notice of appeal filed November 12, 1954, the following portions of the record and proceedings in this action:

1. The Complaint.
2. Plaintiff-Appellants' Notice of Motion and supporting affidavits.
3. Defendant-Appellees' Motion, Notice of Motion and supporting affidavits.
4. The Transcript of Proceedings at the hearing on plaintiff-appellants' motion heard on the 12th day of November, 1954.
5. The order denying plaintiff-appellants' motion for a temporary restraining order and temporary injunction.
6. Notice of Appeal.
7. This designation.
8. Journal entries.

/s/ FINTON J. PHELAN, JR.,
In Propria Persona;

/s/ E. R. CRAIN,
In Propria Persona.

Service of copy acknowledged.

[Endorsed]: Filed November 18, 1954.

[Title of District Court and Cause.]

DESIGNATION OF CONTENTS OF RECORD ON APPEAL

Pursuant to Rule 75 (a) of the Federal Rules of

Civil Procedure, plaintiff-appellants hereby designate for inclusion in the record on appeal to the United States Court of Appeals for the Ninth Circuit, taken by notice of appeal filed December 6, 1954, the following portions of the record and proceedings in this action:

1. All those portions of the record and proceedings in this cause previously designated in the designation of contents of record on appeal filed with this Court November 18, 1954, being No. 14585 in the United States Court of Appeals for the Ninth Circuit.

2. Memorandum of points and authorities in support of defendants' motion for dismissal and for summary judgment filed November 22, 1954.

3. Affidavit of Richard Taitano in support of motion filed November 22, 1954.

4. Transcript of proceedings had on November 26, 1954.

5. Order of dismissal dated November 30, 1954.

6. Notice of appeal filed December 6, 1954.

7. This designation.

8. Journal entries.

9. All other documents filed in this cause.

/s/ FINTON J. PHELAN, JR.;

/s/ E. R. CRAIN.

[Endorsed]: Filed December 21, 1954.

[Endorsed]: No. 14585. United States Court of Appeals for the Ninth Circuit. Finton J. Phelan, Jr., and E. R. Crain, Appellants, vs. Richard Taitano and Harry L. Mangerich, Appellees. Supplemental Transcript of Record. Appeal From the District Court of Guam, Territory of Guam.

Filed January 14, 1955.

/s/ PAUL P. O'BRIEN,

Clerk of the United States Court of Appeals for the Ninth Circuit.